

EXHIBIT A

Excerpts from Rebuttal Expert Report of

Owen Astrachan, dated March 13, 2020

PUBLIC REDACTED VERSION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ORACLE USA, INC., et al.,

Plaintiffs,

v.

RIMINI STREET, INC., et al.,

Defendants.

Case No. 2:10-cv-00106-LRH-VCF

**REBUTTAL EXPERT REPORT
OF PROFESSOR OWEN ASTRACHAN**

March 13, 2020

HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY



Professor Owen Astrachan
Dated: March 13, 2020

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. EXPERT QUALIFICATIONS	2
III. EXECUTIVE SUMMARY	4
1. RIMINI’S PROCESS 2.0 IS FUNDAMENTALLY DIFFERENT FROM THE PROCESSES ADJUDICATED IN <i>RIMINI I</i>	4
2. RIMINI’S PROCESSES DO NOT VIOLATE THE INJUNCTION	6
3. MS. FREDERIKSEN-CROSS’S OPINIONS ARE BASED ON A SERIES OF FUNDAMENTAL ERRORS.....	9
IV. ASSUMPTIONS AND DEFINITIONS	14
1. “CROSS-USE”	14
1.1 Examples of Conduct Ms. Frederiksen-Cross Considers “Cross-Use”	17
1.2 Ms. Frederiksen-Cross’s “Cross-Use” Assumptions Are Inconsistent with Oracle’s Positions Regarding That Term at Trial in <i>Rimini I</i>	21
1.3 Ms. Frederiksen-Cross’s Definition of “Cross-Use” Is Inconsistent with Other Evidence.....	23
1.4 Ms. Frederiksen-Cross’s Assumed Definition of “Cross-Use” Leads to Illogical Results	24
1.5 The Ninth Circuit’s Discussion of “Cross-Use”	26
1.6 Reproducing, Distributing, or Creating Derivative Works of One Client’s Software to Support That Client	28
2. DERIVATIVE WORKS.....	28
3. COLOCATION SERVERS AND THE CLOUD	30
4. LEGAL STANDARDS RELATING TO CIVIL CONTEMPT	31
V. OVERVIEW OF SOFTWARE SUPPORT AND RIMINI’S POST-INJUNCTION PROCESSES.....	31
1. BACKGROUND REGARDING ERP SOFTWARE	32
2. ENVIRONMENTS AND SOFTWARE SUPPORT	34
3. RIMINI’S GENERAL SUPPORT PRACTICES AND SERVICES	36
3.1 Remote Hosting and Access	36
3.2 Types of Rimini Support Services	37
3.2.1 Break/Fix Support.....	37
3.2.2 TLR Updates.....	38
4. RIMINI’S POST-INJUNCTION PEOPLESOFT SUPPORT PRACTICES.....	38
4.1 Overview of Process 2.0 PeopleSoft Processes	39
4.2 Process Changes Since <i>Rimini II</i> Close of Fact Discovery.....	42
5. RIMINI’S POST-INJUNCTION JD EDWARDS SUPPORT PRACTICES	43

TABLE OF CONTENTS

(continued)

	<u>Page</u>
VI. RIMINI'S PROCESS 2.0 IS FUNDAMENTALLY DIFFERENT FROM THE PROCESSES ADJUDICATED IN THIS CASE	43
1. RIMINI'S PROCESS 1.0	43
2. RIMINI'S PROCESS 2.0	47
3. ORACLE'S CRITICISMS OF PROCESS 2.0 ARE ENTIRELY DIFFERENT FROM THE ISSUES LITIGATED ON SUMMARY JUDGMENT AND AT TRIAL IN <i>RIMINI I</i>	49
VII. THE CLIENTS' "OWN COMPUTER SYSTEMS" PROVISION	50
1. CLIENTS' CLOUD-HOSTED ENVIRONMENTS, INCLUDING WINDSTREAM, ARE THE CLIENTS' "OWN COMPUTER SYSTEMS"	50
2. ALLEGED ORACLE CODE OR DOCUMENTS ON RIMINI'S SYSTEMS	58
2.1 [REDACTED]	58
2.2 [REDACTED]	63
2.3 [REDACTED]	66
2.4 [REDACTED] s	67
2.5 Supposed "Other" Examples of Oracle Intellectual Property on Rimini's Systems	68
2.6 Alleged PeopleSoft Documentation on Rimini's Systems	71
2.7 Alleged Copying of Updates Across Multiple Clients	71
VIII. ALLEGED PEOPLESFT "CROSS-USE"	74
1. USE OF CODEANALYZER DOES NOT VIOLATE THE INJUNCTION	74
1.1 The Discontinuation of [REDACTED] Post-Injunction	77
1.2 Four Uses of the [REDACTED] t Utility from November 5 to 9, 2018, Are Not "Cross-Use"	78
1.3 Eight Uses of the Diff Process Between November 5 and 8, 2018, Are Not "Cross-Use"	79
1.4 Rimini's Responses to Requests for Admission Are Correct	80
2. USE OF THE AFW [REDACTED] s TOOL IS NOT "CROSS-USE"	81
3. USE OF RIMINI'S [REDACTED] TOOL IS NOT "CROSS-USE"	82
4. RIMINI'S DEVELOPMENT MODEL, INCLUDING [REDACTED] [REDACTED] DOES NOT VIOLATE THE INJUNCTION	84
5. RIMINI'S TEST PLANS AND TESTING OF CLIENT SOFTWARE ON CLIENT ENVIRONMENTS DO NOT VIOLATE THE INJUNCTION	88
6. RS-PREFIXED FILES	92
7. RIMINI'S USE OF CLIENT ENVIRONMENTS IS NOT "CROSS-USE"	93
8. USE OF DEV INSTRUCTIONS IS NOT "CROSS-USE"	95
9. ALLEGED TRANSFER OF FILES THROUGH MEANS OTHER THAN T [REDACTED]	96
IX. ALLEGED JD EDWARDS "CROSS-USE"	96

TABLE OF CONTENTS
(continued)

	<u>Page</u>
X. JD EDWARDS SOFTWARE SOURCE CODE	104
XI. ALLEGED “DISTRIBUTION” OF SOFTWARE.....	106
1. ALLEGED ACTS OF DISTRIBUTION	106
2. MS. FREDERIKSEN-CROSS’S OPINION THAT “UPDATES REMAIN AVAILABLE TO MULTIPLE RIMINI CUSTOMERS AFTER THEIR INITIAL DEVELOPMENT”	108
XII. ALLEGED “OTHER” VIOLATIONS	109
1. ORACLE DATABASE	109
2. ALLEGED USE AND COPYING OF JD EDWARDS DOCUMENTATION ON RIMINI’S COMPUTERS	109
XIII. MS. FREDERIKSEN-CROSS’S “CASE STUDIES”	110
XIV. MS. FREDERIKSEN-CROSS’S OPINIONS REGARDING ALLEGEDLY DESTROYED RECORDS ARE MISLEADING AND WRONG	114
1. MS. FREDERIKSEN-CROSS’S ASSERTIONS REGARDING ALLEGED “SYSTEMIC DELETION OF FILES” ARE MISLEADING	114
2. RIMINI’S RECORD-KEEPING PRACTICES	118

[REDACTED] When Rimini implements an update for Client A using Client A's software, in Client A's environment, it learns how to solve the problem and may document its experience and knowledge. It can then implement the update for Client B, using Client B's software, in Client B's environment faster than it performed the update for Client A because it has already solved the problem once. [REDACTED]

[REDACTED]

[REDACTED]

160. Based on my review of the record, Rimini's use of its own knowledge and experience was not litigated in *Rimini I*. *Rimini I* involved the explicit copying of one client's Oracle software and providing that software to a different client, which is not at issue here.

VII. THE CLIENTS' "OWN COMPUTER SYSTEMS" PROVISION

1. CLIENTS' CLOUD-HOSTED ENVIRONMENTS, INCLUDING WINDSTREAM, ARE THE CLIENTS' "OWN COMPUTER SYSTEMS"

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

162. The Injunction states that "Rimini shall not reproduce, prepare derivative works from, or use PeopleSoft software or documentation on, with, or to any computer systems other than a specific licensee's own computer systems."¹³⁹

¹³⁶ I understand that Windstream now operates as TierPoint. For consistency, I refer to the company as Windstream.

¹³⁷ Frederiksen-Cross Post-Injunction Rpt., ¶ 14.

¹³⁸ Deposition of Barbara Frederiksen-Cross, Sept. 19, 2018, pp. 253–54.

¹³⁹ Injunction ¶ 5.

163. I understand that whether cloud services leased by a Rimini client are that client's "own computer systems" within the meaning of the Injunction is a disputed legal issue, and that the issue of whether a cloud account constitutes a client's "own computer systems" was not resolved in *Rimini I*.¹⁴⁰ I am not a lawyer, and I express no opinion as to the legal interpretation or meaning of the Injunction's terms. However, from a technical perspective, when a company uses a cloud account, it is my opinion that the cloud account is part of that company's "computer systems." I provide technical background and other support for my opinion below.

164. Some users of complex software commonly choose to store or locate their software at remote locations or in the cloud. Two common remote hosting arrangements are colocation and cloud hosting. The "cloud" refers to computing resources available for lease over the Internet. Cloud computing resources operate like traditional on-premises computing resources, but can be cheaper, more efficient, more secure, and provide better scalability. "Colocation" is the practice of locating a client's equipment (whether owned or leased) in a third-party datacenter.¹⁴¹ The colocation provider provides the client with network connectivity, electrical power, and space for placement of computer servers.¹⁴²

165. The location of software, whether physically at a client's place of business, on a colocation server, or in the cloud, has almost no practical effect on the use of the software. In fact, a typical user of remotely hosted PeopleSoft software may not even know where that software is hosted. Whether a company uses computing resources physically located in its own building or off-premises is largely irrelevant from a functionality perspective. In both cases, they are the company's computing resources, and thus the company's "computer systems" as I understand that term from a technical perspective. For purposes of computing, a business's "computer systems" can be in any location in the world where a business has chosen to locate its computing resources.

¹⁴⁰ Tr. of May 25, 2016 Hearing, p. 143 (Oracle's counsel acknowledging that "cloud computing is at issue in *Rimini II* and it wasn't at issue in *Rimini I*").

¹⁴¹ Encyclopedia – Definition of colocation, <https://www.pcmag.com/encyclopedia/term/39977/colocation>.

¹⁴² Deposition of Denny Heaberlin (Windstream/TierPoint), Feb. 28, 2018, p. 14.

166. Further, whether software is hosted on a server at the client's headquarters, in some other building the client owns or rents, in a colocation arrangement in a data center owned by some other entity, or in the cloud, makes no practical difference from a technical perspective. A client's own IT professionals, or a third-party support provider like Rimini, will securely access the client's software environment in the same manner (*e.g.*, via VPN) and perform the necessary work. Use of the software is the same. Testing of the software is the same.

167. In both colocation and cloud-hosting arrangements, the client has ultimate control over its software environments. The client is able to impose access restrictions on other users. And the client can move or delete the computing resource (*e.g.*, the virtual machine containing the client's software environments) or close its colocation or cloud account at any time.

168. Based on the foregoing, it is my opinion that a company's cloud account is the company's own computer systems.

169. Further, the documents I have reviewed indicate that Rimini's clients who use Windstream to host their PeopleSoft software exercise ultimate control over their Windstream accounts. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁴³ Deposition of Jeff Waide (Windstream/TierPoint), Oct. 17, 2019, p. 31–32.

¹⁴⁴ *Id.* at pp. 34–35 and Ex. 1820.

¹⁴⁵ Deposition of [REDACTED], Dec. 1, 2016, pp. 112, 114–16, 124–25; Deposition of Jeff Waide (Windstream/TierPoint), Oct. 17, 2019, pp. 36–37.

[REDACTED]

[REDACTED]

¹⁴⁶ Frederiksen-Cross Post-Injunction Rpt., ¶ 169.

¹⁴⁷ Deposition of [REDACTED], Sept. 20, 2019, p. 54.

[REDACTED]

172. Further, my opinion that a cloud account constitutes a business's "own computer systems" does not change if the cloud account exists solely to provide a location for a vendor to access the business's software to provide services to the business (such as third-party support for the software). Indeed, regardless of whether the business provides a vendor a dedicated account on a cloud server or a server in the business's building, that account (and the server space it occupies) would still be, as a technical matter, part of the business's computer systems.

173. The deposition testimony I have reviewed is consistent with this opinion, making clear that both Rimini's clients and Windstream view a client's Windstream accounts as the client's "own computer systems." [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁴⁸ Deposition of [REDACTED] Dec. 1, 2016, pp. 122–23.

¹⁴⁹ Deposition of [REDACTED]), Sept. 20, 2019, p. 20.

¹⁵⁰ Deposition of [REDACTED]), Dec. 1, 2016, p. 125.

¹⁵¹ Deposition of Jeff Waide (Windstream/TierPoint), Oct. 17, 2019, p. 37.

¹⁵² Frederiksen-Cross Post-Injunction Rpt., ¶ 171.

[REDACTED]

[REDACTED]

¹⁵³ Deposition of Jeff Waide (Windstream/TierPoint), Oct. 17, 2019, at 31-37.

¹⁵⁴ Deposition of Richard Allison, Mar. 28, 2018, pp. 124–26. Mr. Allison, Oracle’s licensing executive, testified that he believes that compliance with Oracle’s license agreements depends on the ownership of the building in which a server is located.

¹⁵⁵ Frederiksen-Cross Post-Injunction Rpt., ¶ 174.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁵⁶ Rimini's Second Supplemental Response to Oracle's Supplemental Interrogatory No. 3, Dec. 27, 2019, Ex. A-1.

¹⁵⁷ RSI007099151.

¹⁵⁸ Frederiksen-Cross Post-Injunction Rpt., ¶ 178.

[REDACTED]

[REDACTED]

¹⁵⁹ *Id.* ¶ 183.

¹⁶⁰ Deposition of [REDACTED] September 20, 2019, p. 64.

¹⁶¹ [REDACTED] 3-SUB00000180 ([REDACTED])

¹⁶² Frederiksen-Cross Post-Injunction Rpt., ¶ 181.

2. ALLEGED ORACLE CODE OR DOCUMENTS ON RIMINI'S SYSTEMS

[REDACTED]

[REDACTED]

[REDACTED]

¹⁶³ *Id.* ¶ 185.

¹⁶⁴ *Id.* ¶ 372 [REDACTED]

¹⁶⁵ *Id.* ¶ 185.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* ¶ 186.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁶⁸ *Id.* ¶¶ 186, 286.

¹⁶⁹ *Id.* ¶ 187.

¹⁷⁰ I discussed [REDACTED] at length in my *Rimini II* Rebuttal Report (¶¶ 189–411) and incorporate that discussion by reference here.

[REDACTED]

[REDACTED]

¹⁷¹ <https://www.ssa.gov/employer/efw/19efw2.pdf#zoom=100>.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁷² I note that the Rimini procedure is titled [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁷³ Frederiksen-Cross Post-Injunction Rpt., ¶ 286.

¹⁷⁴ ECF No. 1297 (Rimini Opp. to Mtn. to Compel), pp. 16–23; ECF No. 1297-4 (Mendillo Decl.).

¹⁷⁵ Frederiksen-Cross Post-Injunction Rpt., ¶ 189.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁷⁶ *Id.* Ex. 47.

¹⁷⁷ [REDACTED]

[REDACTED]

[REDACTED]

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ Frederiksen-Cross Post-Injunction Rpt., ¶ 191.

¹⁸¹ *Id.*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁸² R2 Astrachan Rebuttal Rpt., ¶¶ 207–15.

¹⁸³ Frederiksen-Cross Post-Injunction Rpt., ¶ 192.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁸⁴ *Id.* ¶ 194.

¹⁸⁵ RSI007285466.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2.5 Supposed “Other” Examples of Oracle Intellectual Property on Rimini’s Systems

[REDACTED]

[REDACTED]

¹⁸⁶ RSI007954666 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁸⁷ Frederiksen-Cross Post-Injunction Rpt., ¶ 195.

¹⁸⁸ *Id.* ¶ 197.

¹⁸⁹ Trial Tr., pp. 839, 846.

[REDACTED]

[REDACTED]

¹⁹⁰ Frederiksen-Cross Post-Injunction Rpt., ¶ 198.

¹⁹¹ *Id.*

¹⁹² [REDACTED]

¹⁹³ R2 Astrachan Rebuttal Rpt., ¶¶ 594–601.

¹⁹⁴ Interview with James Butler, Senior Vice President & Chief Ethics and Compliance Officer.

2.6 Alleged PeopleSoft Documentation on Rimini's Systems

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2.7 Alleged Copying of Updates Across Multiple Clients

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁹⁵ *Id.* ¶ 199.

¹⁹⁶ *Id.*

¹⁹⁷ Deposition of Craig Mackereth, Jan. 17, 2020, Ex. 1852 (RSI007050433).

¹⁹⁸ Frederiksen-Cross Post-Injunction Rpt., ¶ 202.

[REDACTED]

[REDACTED]

[REDACTED]

¹⁹⁹ *Id.* ¶ 203.

²⁰⁰ *Id.* Ex. 18.

²⁰¹ *Id.* ¶ 205.

²⁰² *Id.* ¶ 204.

²⁰³ *Id.* ¶ 205.

[REDACTED]

[REDACTED]

[REDACTED]

²⁰⁴ *Id.* ¶ 206.

²⁰⁵ *Id.* ¶ 207.

²⁰⁶ *Id.*

²⁰⁷ *Id.* Heading IV.A.

VIII. ALLEGED PEOPLESOFT “CROSS-USE”

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1. USE OF CODEANALYZER DOES NOT VIOLATE THE INJUNCTION

222. Rimini’s PeopleSoft team uses a set of proprietary tools that it developed—called the Automation Framework, or “AFW”—to communicate with and manage remote software environments belonging to its numerous clients.²⁰⁸ As explained above, when Rimini transitioned to Process 2.0, it no longer had any Oracle software environments on its own systems. Its clients’ software environments are hosted on those clients’ own computer systems, either on the clients’ physical premises, or the cloud. The AFW tools facilitate development work in the Process 2.0 remote system. Rimini recently received a patent on aspects of AFW.²⁰⁹

223. I explained the AFW tools in great detail in my two reports in *Rimini II*.²¹⁰ I am familiar with the AFW tools from my extensive discussion of those tools in *Rimini II*, my analysis of Oracle's two experts' opinions regarding those tools in *Rimini II*, my review of the code and documentation for the tools, and from witnessing the tools used in various

²⁰⁸ Rimini Street Automation Framework, RSI2 031195051.

²⁰⁹ U.S. Patent No. 10,509,639 (inventors Jim Bengé, Rick Frank, Don Sheffield, and Doug Baron).

²¹⁰ See, for example, R2 Astrachan Opening Rpt., ¶¶ 80–83, 85–110; R2 Astrachan Rebuttal Rpt. ¶¶ 85, 102–31, 163–87.

demonstrations of Rimini’s processes. One AFW tool, discussed at length by me, Ms. Frederiksen-Cross, and Oracle’s expert Christian Hicks in *Rimini II*, is known as CodeAnalyzer.

224. I provided a detailed analysis of CodeAnalyzer in my reports in *Rimini II* and incorporate that discussion by reference.²¹¹ [REDACTED]

Given that fact and my extensive discussion of the tool, I provide only a high-level summary of the tool for background purposes.

[illegible]

²¹¹ R2 Astrachan Opening Rpt., ¶¶ 101–05; R2 Astrachan Rebuttal Rpt., ¶¶ 102–10.

²¹² See R2 Astrachan Rebuttal Rpt., ¶¶ 168–70; R2 Astrachan Opening Rpt., ¶ 109.

²¹³ See R2 Astrachan Rebuttal Rpt., ¶ 168.

²¹⁴ See *id.* ¶¶ 168–70; R2 Astrachan Opening Rpt., ¶ 109.

²¹⁵ See R2 Astrachan Rebuttal Rpt., ¶ 170.

²¹⁶ Deposition of Christian Hicks, Aug. 15, 2018, pp. 294–95.

[REDACTED]

[REDACTED]

[illegible]

²¹⁷ R2 Astrachan Opening Rpt., ¶¶ 101–05.

218 *Id.* ¶ 100.

219 *Id.*

²²⁰ Deposition of Christian Hicks, Aug. 15, 2018, p. 165; *see id.* at pp. 166, 174–76.

²²¹ R2 Astrachan Opening Rpt., ¶ 104.

222 *Id.*

Age Group	Gender	Percentage Vaccinated
65 and older	Female	90%
65 and older	Male	90%
55-64	Female	85%
55-64	Male	85%
45-54	Female	75%
45-54	Male	65%
35-44	Female	65%
35-44	Male	55%
25-34	Female	55%
25-34	Male	45%
18-24	Female	45%
18-24	Male	35%

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

223 *Id.* ¶ 105.

²²⁴ RSI006850037 (email from Jim Bengé stating that [REDACTED]).

225 RSI007120993 (spreadsheet describing [REDACTED]).

²²⁶ This appears to have been accomplished by changing the password to [REDACTED]. RSI007099173.

²²⁷ Frederiksen-Cross Post-Injunction Rpt., ¶ 213.

228 *Id.* ¶ 214.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²²⁹ See, for example, *id.* ¶ 216 (chart showing that [REDACTED])

²³⁰ Frederiksen-Cross Post-Injunction Rpt., ¶¶ 218, 220.

²³¹ *Id.* ¶ 218.

²³² *Id.*

[REDACTED]

[REDACTED]

²³³ RSI007485168, RSI007226382, RSI007981849, [REDACTED]-SUB00000194-0010.

²³⁴ In a footnote, Ms. Frederiksen-Cross asserts that [REDACTED]

²³⁵ Frederiksen-Cross Post-Injunction Rpt., ¶ 221.

²³⁶ Deposition of Christian Hicks, Aug. 15, 2018, p. 165; *see id.* at pp. 166, 174–76.

[REDACTED]

1.4 Rimini's Responses to Requests for Admission Are Correct

[REDACTED]

[REDACTED]

²³⁷ Frederiksen-Cross Post-Injunction Rpt., ¶ 224.

²³⁸ Deposition of Christian Hicks, Aug. 15, 2018, p. 165; *see id.* at pp. 166, 174–76; *see also* Deposition of Barbara Frederiksen-Cross, Sept. 19, 2018, p. 115.

²³⁹ Frederiksen-Cross Post-Injunction Rpt., ¶ 222.

²⁴⁰ Rimini's Responses to Oracle's First Supplemental Requests for Admission, Jan. 17, 2020, p. 8.

[REDACTED]

2. USE OF THE AFW TRANSFERFILES TOOL IS NOT “CROSS-USE”

238. AFW has another tool called TransferFiles. As discussed in my *Rimini II* reports,²⁴² it allows Rimini to transfer a file from Rimini’s systems to a Rimini client’s remote environment. TransferFiles is *one way only*. It transfers files from Rimini to the client’s computer systems; but it cannot transfer files from a client’s computer system back to Rimini’s systems. Additionally, it cannot transfer files from a client’s computer systems to a different client’s computer systems, either directly or indirectly.

[REDACTED]

[REDACTED]

²⁴¹ R2 Hicks Supp. Rpt., ¶ 8.8.2.

²⁴² See, for example, R2 Astrachan Rebuttal Rpt., ¶ 171.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁴³ Frederiksen-Cross Post-Injunction Rpt., ¶ 225.

²⁴⁴ *Id.* ¶ 160; RSI006948969; RSI007981843.

²⁴⁵ *See* R2 Astrachan Rebuttal Rpt., ¶¶ 171–72.

²⁴⁶ Frederiksen-Cross Post-Injunction Rpt., ¶ 229.

[REDACTED]

[REDACTED]

[REDACTED]

²⁴⁷ R2 Astrachan Opening Rpt., ¶ 110.

²⁴⁸ Deposition of James Benge, Feb. 23, 2018, p. 173; Rimini Street Automation Framework, RSI2_031195051 at p. -057; Deposition of Richard Frank, Feb. 28, 2018, pp. 72–74.

²⁴⁹ Oracle's Expert in *Rimini II* who opined on [REDACTED]
[REDACTED] R2 Hicks Supplemental Rpt., ¶ 6.2.1.4.1 (p. 24).

[REDACTED]

[illegible][illegible]

²⁵⁰ Frederiksen-Cross Post-Injunction Rpt., ¶ 231.

251 *Id.*

²⁵² <http://agilemanifesto.org/>.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁵³ Scrumban: Essays on Kanban Systems for Lean Software Development, Corey Ladis, Modus Cooperandi Press, 2011.

²⁵⁴ See, for example, R2 Astrachan Opening Rpt., ¶¶ 74–108; R2 Astrachan Rebuttal Rpt., ¶¶ 89–101, 132–33, 154–56.

²⁵⁵ R2 Astrachan Opening Rpt. ¶¶ 84–90, 106–08; R2 Astrachan Rebuttal Rpt., ¶¶ 89, 91–95.

²⁵⁶ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁵⁷ Frederiksen-Cross Post-Injunction Rpt., ¶ 232.

²⁵⁸ *Id.* ¶ 240 (emphasis added).

²⁵⁹ *Id.* ¶¶ 233–39; *see id.* ¶ 92.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁶⁰ Deposition of Craig Mackereth, Jan. 17, 2020, pp. 228–30.

²⁶¹ Frederiksen-Cross Post-Injunction Rpt., ¶ 241.

²⁶² Frederiksen-Cross Post-Injunction Rpt., ¶¶ 243–59.

²⁶³ R2 Frederiksen-Cross Rebuttal Rpt., ¶ 217.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁶⁴ Frederiksen-Cross Post-Injunction Rpt., ¶ 243.

²⁶⁵ My knowledge of Rimini's [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁶⁶ Frederiksen-Cross Post-Injunction Rpt., ¶ 249.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁶⁷ R2 Astrachan Rebuttal Rpt., Exhibit [REDACTED]

²⁶⁸ Frederiksen-Cross Post-Injunction Rpt., ¶ 257.

²⁶⁹ Screenshot from Frederiksen-Cross Post-Injunction Rpt., ¶ 257.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁷⁰ R2 Astrachan Opening Rpt., ¶ 109; R2 Astrachan Rebuttal Rpt., ¶ 189.

²⁷¹ In *Rimini II*, Ms. Frederiksen-Cross opined that [REDACTED] I discussed these files individually at length in my Rimini II Rebuttal Report. See R2 Astrachan Rebuttal Rpt., ¶¶ 190–414.

²⁷² Frederiksen-Cross Post-Injunction Rpt., ¶ 268.

[REDACTED]

[REDACTED]

7. RIMINI’S USE OF CLIENT ENVIRONMENTS IS NOT “CROSS-USE”

[REDACTED]

²⁷³ *Id.* ¶ 269.

²⁷⁴ *Id.* ¶¶ 270–71.

²⁷⁵ RSI007226397, RSI007226398, RSI007226399.

²⁷⁶ Frederiksen-Cross Post-Injunction Rpt., ¶ 272.

[REDACTED]

[REDACTED]

[REDACTED]

²⁷⁷ *Id.* ¶ 274; RSI007421994.

²⁷⁸ RSI007421994 at '2001.

²⁷⁹ Frederiksen-Cross Post-Injunction Rpt., ¶ 275.

²⁸⁰ *Id.* ¶ 276.

[REDACTED]

[REDACTED]

[REDACTED]

²⁸¹ *Id.* ¶ 279.

²⁸² *Id.* ¶ 283.

²⁸³ *Id.* ¶ 285.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁸⁴ *Id.* ¶ 290.

²⁸⁵ *Id.* ¶ 291.

²⁸⁶ *Id.* ¶ 293.

[REDACTED]

[REDACTED]

[REDACTED]

²⁸⁷ Deposition of Craig Mackereth, Jan. 17, 2020, pp. 243–44.

²⁸⁸ *Id.* at pp. 210–12.

²⁸⁹ Frederiksen-Cross Post-Injunction Rpt., ¶ 297; *id.* ¶ 294.

²⁹⁰ For example, R2 Frederiksen-Cross Supplemental Rpt., ¶¶ 455–57, 466–67; *id.*, Exhibit III.1.

█ [REDACTED]
[REDACTED]

█ [REDACTED]
[REDACTED]

█ [REDACTED]
[REDACTED]

█ [REDACTED]
[REDACTED]

█ [REDACTED]

█ [REDACTED]
[REDACTED]

█ [REDACTED]
[REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

█ [REDACTED]

[REDACTED]

²⁹¹ *Id.* ¶ 296.

[REDACTED]

[REDACTED]

[REDACTED]

²⁹² R2 Astrachan Rebuttal Rpt., ¶ 557.

²⁹³ Frederiksen-Cross Post-Injunction Rpt., ¶ 300.

²⁹⁴ Deposition of Craig Mackereth, Jan. 17, 2020, pp. 228–30.

[REDACTED]

[REDACTED]

[REDACTED]

²⁹⁵ Frederiksen-Cross Post-Injunction Rpt., ¶ 301.

²⁹⁶ *Id.*

²⁹⁷ *Id.* ¶ 302.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁹⁸ *Id.* ¶ 322.

²⁹⁹ *Id.* ¶ 304.

³⁰⁰ *Id.*

[REDACTED]

[REDACTED]

[REDACTED]

³⁰¹ *Id.*

³⁰² Deposition of Craig Mackereth, Jan. 17, 2020, pp. 210–12.

[REDACTED]

[REDACTED]

[REDACTED]

³⁰³ Frederiksen-Cross Post-Injunction Rpt., ¶ 320.

³⁰⁴ RSI007407738.

³⁰⁵ *Id.*

³⁰⁶ RSI007399628.

³⁰⁷ Frederiksen-Cross Post-Injunction Rpt., Heading IV.D.3.

[REDACTED]

[REDACTED]

[REDACTED]

X. JD EDWARDS SOFTWARE SOURCE CODE

305. I understand that the Injunction prohibits Rimini from copying “J.D. Edwards software source code,” and that this provision in the Injunction stems from (some) JD Edwards license agreements. I further understand that the proper interpretation of this term as used in the Injunction is a disputed legal issue.

306. I understand that Rimini believes that “J.D. Edwards software source code” means “closed code” in the JD Edwards software. [REDACTED]

[REDACTED]

³⁰⁸ Frederiksen-Cross Post-Injunction Rpt., ¶ 324.

[REDACTED]

307. As a computer scientist, I do not have an opinion regarding the legal definition, or industry understanding of the term “J.D. Edwards software source code” as used in the Injunction. However, I do have opinions relevant to this issue, which I set forth below.

308. [REDACTED]

[REDACTED]

[REDACTED]

³⁰⁹ *Id.* ¶ 313.

³¹⁰ R2 Astrachan Opening Rpt., ¶¶ 129–31.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

XI. ALLEGED “DISTRIBUTION” OF SOFTWARE

1. ALLEGED ACTS OF DISTRIBUTION

[REDACTED]

³¹¹ See, for example, Frederiksen-Cross Post-Injunction Rpt., ¶ 306 (identifying the checking in and out of source code during use of Object Management Workbench and the promotion of objects).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

³¹² *Id.* ¶¶ 332–33.

[REDACTED]

2.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

³¹³ In one instance, Ms. Frederiksen-Cross alleges t

[REDACTED]

XII. ALLEGED “OTHER” VIOLATIONS

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[illegible][illegible]

³¹⁴ *Rimini I*, 879 F.3d at 952.

³¹⁵ *Id.* at 953.

³¹⁶ Frederiksen-Cross Post-Injunction Rpt., ¶ 360.

[REDACTED]

[REDACTED]

XIII. MS. FREDERIKSEN-CROSS'S "CASE STUDIES"

[REDACTED]

[REDACTED]

[REDACTED]

³¹⁷ *Id.* ¶ 363.

³¹⁸ *Id.* ¶ 364.

³¹⁹ *Id.* ¶ 365.

³²⁰ *Id.* ¶ 381.

[REDACTED]

[REDACTED]

³²¹ *Id.*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

³²² Frederiksen-Cross Post-Injunction Rpt., ¶ 372.

[REDACTED]

DESTROYED RECORDS ARE MISLEADING AND WRONG

[REDACTED]

[REDACTED]

³²³ Interview with James Butler, Senior Vice President & Chief Ethics and Compliance Officer.

³²⁴ Frederiksen-Cross Post-Injunction Rpt., ¶ 382.

[REDACTED]

[REDACTED]

2. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

³³⁰ See RSI_AFW_004, [REDACTED]

³³¹ R2 Astrachan Rebuttal Rpt., ¶ 660.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

³³² Indeed, she admits that [REDACTED]

[REDACTED]

[REDACTED]

351. I thus find Ms. Frederiksen-Cross' criticisms of Rimini's records to be unfounded.

³³³ Deposition of Craig Mackereth, Oct. 9, 2017, p. 58.